

proceeds of the recovery shall be applied as follows:

(a) If an attorney is employed, a reasonable attorney's fee and cost of collection, if any, shall first be deducted from the gross amount of the settlement;

(b) The beneficiary is entitled to retain one-fifth of the net amount of the money or other property remaining after the expenses of a suit or settlement have been deducted.

(c) There shall then be remitted to the Office the benefits which have been paid on account of the injury including payments made on account of medical treatment, transportation costs, funeral expenses, and any other payments made under the Act on account of the injury or death, but not including continuation of pay as provided by 5 U.S.C. 8118. If an attorney was employed, the amount to be remitted to the Office shall be reduced by an amount equivalent to a reasonable attorney's fee proportionate to any refund to the United States.

(d) Any surplus remaining after proper refund has been made to the Office may be retained by the beneficiary but shall be credited by the Office against future payment of benefits to which the beneficiary may be entitled under the Act on account of the same injury or death.

[40 FR 6877, Feb. 14, 1975, as amended at 52 FR 10522, Apr. 1, 1987]

§ 10.504 Distribution of damages where cause of action is assigned.

If recovery is realized upon a cause of action assigned to the United States pursuant to 5 U.S.C. 8131, the money or other property so received shall be applied in the following manner: After deducting the amount of any payments made under the Act in respect of the injury or death on account of which the cause of action arose, and the expense of such realization or collection, which sum shall be placed to the credit of the proper fund of the Office, the surplus, if any, of such amount received shall be paid to the beneficiary and credited pro tanto upon any future payment of benefits payable to him on account of the same injury. However, the beneficiary is entitled to not less than one-fifth of the net amount of a

settlement or recovery remaining after the expenses of such realization or collection have been deducted.

§ 10.505 Office may require beneficiary to settle or compromise third party suit.

Where a beneficiary under the Act has commenced an action in his or her own name or has initiated such action through an administrator of a deceased person to recover damages against the third party liable for the injury or death, the Office shall, at all times, have authority to require the beneficiary or such administrator to settle or compromise such action whenever it shall determine that further prosecution of the cause of action is not warranted. Refusal on the part of such beneficiary or other person acting in the interest of the beneficiary to make such settlement or to effect such compromise when so directed shall be deemed to be sufficient cause for refusal on the part of the Office to pay or cause to be paid any benefits under the Act on account of the same injury or death, or the Office may suspend or cause to suspend the payment of benefits under the Act during the period of such refusal.

§ 10.506 Official superior's responsibility in cases involving potential third party liability.

If it appears that an injury or death for which benefits are payable under the Act was caused under circumstances creating a legal liability upon a person or persons other than the United States to pay damages, the official superior or other agency official shall investigate the third party aspect of the injury or death and submit a report of the findings with related documents to the Office.

[52 FR 10523, Apr. 1, 1987]

§ 10.507 Satisfaction of the interest of the United States.

No court, insurer, attorney, or other person shall pay or distribute to the beneficiary or the beneficiary's designee the proceeds of any suit or settlement without first satisfying or assuring satisfaction of the interest of the United States.

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